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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,510	01/18/2005	Jorg Kuchen	KUCHEN ET AL 1 (PCT)	1985
25889	7590	01/06/2009		
COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			EXAMINER HAUPT, KRISTY A	
			ART UNIT	PAPER NUMBER
			2876	
			MAIL DATE	DELIVERY MODE
			01/06/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/521,510

Applicant(s)

KUCHEN ET AL.

Examiner

KRISTY A. HAUPT

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-19, 21, 22 and 24-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3-18 and 24-28 is/are allowed.
- 6) ☒ Claim(s) 19, 21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This office action is in response to Applicant's Amendment and Remarks filed 01 August 2008. Claims 1, 3-19, 21-22 and 24-28 are pending with claims 1 and 19 in independent form.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 19 is rejected under 35 U.S.C. 102(b) as being anticipated by Rekimoto et al. US 2001/0012001 A1.

Rekimoto teaches:

With respect to claim 19, a method of capturing an image shown in a display that is substantially placed onto an image fitting surface (Figure 18 teaches capturing an image of an object's shadow (SHD) on a semi-transparent screen (2B)), wherein an image capturing unit is held obliquely relative to the display (Figure 17 and Page 10, Paragraph 0144 teaches that a CCD camera (4) may be located at an angle relative to the display where there is not a sufficient space to install the camera (4)) and the image fitting surface is positioned between the display and the image capturing unit (Figure 18 teaches the image fitting surface (semi-

transparent screen, 2B) is between camera (CCD, 4) and the display (SHD); Also see Pages 10-11, Paragraphs 0144-0162).

It is noted that these are structural limitations in a method claims where it has been held that to be entitled to weight in method claims, the recited structure limitations therein must affect the method in a manipulative sense, and not to amount to the mere claiming of a use of a particular structure. *Ex parte Pfeiffer*, 1962 C.D. 408 (1961).

With respect to claim 21 and incorporating all limitations of claim 19:

- Wherein the display is illuminated during image capturing by light having a wavelength of between 450 nm and 600 nm (Page 1 Paragraph 0014 teaches projecting light in the visible range)

With respect to claim 22 and incorporating all limitations of claim 19:

- Wherein the display is lit by light beams of a lighting device and that the light beams travel substantially along a light path of the image capturing unit (Figure 18 teaches infrared LED panel and projector (3 and 5 respectively) whose light beams travel substantially along a light path of the image capturing unit (4))

Allowable Subject Matter

3. Claims 1, 3-18 and 24-28 are allowed.

The following is an examiner's statement of reasons for allowance: The prior art of record fails to teach or fairly suggest to one of ordinary skill in the art, in conjunction with all the other limitations of the claims:

With respect to claim 1 and all its dependencies:

- An image capturing apparatus having an image capturing unit and an image fitting surface where the optical axis of the image capturing unit passes from the image capturing unit through the image fitting surface to the image and is disposed to that the optical axis of the image capturing unit is inclined at an angle of more than 5 degrees with respect to a normal of the image fitting surface in a region where the optical axis traverses the image fitting surface and which further comprises a screen made from a light-impervious material which prevents ambient light or stray light from being incident upon the image fitting surface

The prior art of record fails to provide sufficient teaching or motivation to one of ordinary skill in the art to provide the additionally recited features of these claims in the combinations as claimed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

4. Applicant's arguments with respect to claims 1-, 21 and 22 have been considered but are moot in view of the new ground(s) of rejection.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTY A. HAUPT whose telephone number is (571)272-8545. The examiner can normally be reached on M-F 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kristy A Haupt/
Examiner, Art Unit 2876

/Michael G Lee/
Supervisory Patent Examiner, Art Unit 2876